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cluded, because it was of cardinal importance to establish the former ownership of the land by Pergoaldus, upon which depended the value of the documentary evidence.

The notary who drew up the record, therefore, had to decide how the three clauses which he intended to insert in the formula, should be arranged.<sup>33</sup> Following the regular form which was used most commonly, as far as I have been able to ascertain,<sup>34</sup> he wrote: "Sao cco kella terra per kelle fini *que tebe monstrai*, . . .", then of the other two clauses ("*Pergoaldi foro*" and "*que ki contene*"), he chose to put the former first, because it is all-important, and the latter last, (perhaps only as an after-thought), because it is of secondary importance. That is, the whole important part of the formula was put down first, and the less important part tacked on to the end.

It is possible that the awkwardness of the repetition of relative pronouns in the possible arrangement: "per kelle fini *que tebe monstrai*, *que ki contene*, *Pergoaldi foro*, etc.," may have had some influence on the notary, but that seems to me very unlikely, in view of the unoriginal manner in use, of building up the records from fragments of preceding models.

Even supposing that the arrangement of the various clauses is due merely to chance, it seems clear to me that in this curious order of words we have not a syntactical problem, but only a question of mechanical arrangement.

J. E. SHAW.

*Johns Hopkins University.*

<sup>33</sup> Even if the judge decided how the witnesses should speak the formula, he would be ruled by the same considerations as would the notary.

<sup>34</sup> I have not found any other documents of this period which have a sentence: "*que ki contene*," as do our record and the Carta Capuana of 960, and, although doubtless it was used not infrequently, it seems reasonable to suppose that in most suits of this kind, at this time, no documents would be offered; this because of the exceptional importance given by the Lombard custom, to the swearing of witnesses. That the formula not referring to documents was actually the more common seems to be shown by a record of Suessa of 976, which relates the offering of a document in evidence, but which has a formula of testimony containing no reference to that document, as follows: "Scio, illæ terræ & monti per ille fines quæ vobis demonstravi, triginta annos possedit pars Sancti Martini." (*Rer. It. Script.*, 1b, 460-).

### HILDEBRANDSLIED, 63 f.

In *Lazamon's Brut* there occurs a passage so strikingly suggestive of the much-discussed lines 63-64<sup>a</sup> of the *Hildebrandslied*, that the two deserve to be quoted side by side.

*Hildebr.* 63 f.: *dô lêtun se ærist asckim scrîtan*, | *scarpên scûrim*.

*Brut* 28320 f.: (*summe hi fuhten a londe, summe bi þan stronde*,) *summe heo letten ut of scipen* | *scerpe garen scrîpen*.

"They first let sharp spears fly"—this is without question the natural and proper interpretation of the former passage (cf. Meissner, *Z. f. d. A.*, XLII, 122 ff.; Trautmann, *Finn und Hildebrand*, 113), which, moreover, has been supported by Old English parallels, *Judith* 221 (cf. *Denkmäler*, II, 16), *Elene* 237 f., 117 ff. (Trautmann, *l. c.*). Cp. further *Maldon* 149 f.: *forlêt þā drenga sum daroð of handa flēogan of folman*. The only doubtful point remaining is the use of the dative *asckim*, in place of which we should expect an accusative. Trautmann emends to *aski inscrîtan* (OE. *æscas onscrîðan*), thereby introducing an οὐδέποτε λεγόμενον. Meissner, following up a suggestion of Roethe's, tries to show that the dative after *lāzan* with infinitive may have been permissible, yet none of the Middle High German instances cited by him (*l. c.*, 125) is of exactly the same character as the case in question (where the infinitive is used absolutely, without any complement).

To operate with the conjecture *aski* would seem a little bold, though it is evident that the scribe could easily have been led by the following datives *scarpên*, *scûrim*, *sciltim* to misspell the form as *asckim*. As regards the function of *scarpên scûrim*, it may either serve as 'variation' of a preceding *asckim* or be used adverbially, 'in sharp showers,' with reference to *lêtun ascki scrîtan*. Both constructions could be exemplified from the Old English.

At any rate, the old explanation of *lêtun scrîtan* with reference to an (understood) accusative *diu hros* (see *Denkmäler*, II, 16) should be definitely dropped. It makes less satisfactory sense than the plain, clear statement: 'first they shot their spears, then, in close encounter, they hewed the shields [with their swords]'. Nor have

the accompanying datives been sufficiently accounted for. Certainly the MHG. example cited in *Denkmäler* II, 16 : *sie liezen umbe gān mit sper und mit schilde* is by no means quite analogous. More than that, the close parallels from OE. poems and especially from the *Brut*, are a strong, not to say, decisive argument against that time-honored, but awkward interpretation of the famous passage.<sup>1</sup>

FR. KLAEBER.

*The University of Minnesota.*

### CHAUCER, *PARL. FOULES* 353.

In *Parl. Foules* 353-4, where Skeat reads,

The swallow, mordrer of the flyës smale  
That maken hony of floures fresshe of hewe,

MSS. Trin. Th. have *flyes*, MS. Ff. has *bryddis*, MSS. Gg. and O. *foulis*, and all the other MSS. *foules* or *fowles*. Skeat remarks upon the variants : 'But *flyes* is right ; see Cant. Ta. I. 468, Boeth. iii, met. 7' ; and in the note he says of *flyes* : 'This, the right reading (see footnote), occurs in two MSS. only ; the scribes altered it to *foules* or *briddes* !'

In a review of Skeat's six-volume edition, published in the *New York Tribune* for February 24, 1895, Professor Lounsbury, after pointing out that the modern editions generally read *bees*, adds : '*Bees*, however, is not found in a single manuscript. Eleven of the thirteen printed read *fowles*, and one its equivalent, *briddes*, that is, "birds." To represent the swallow as the murderer of birds, which birds also make honey, was almost aggressively absurd, and in spite of the weight of authority in favor of the reading, was manifestly incorrect. The single remaining manuscript read *flyes*, "flies." That was also the word found in the earlier black-letter editions till the folio of 1561. Then and there *bees* was substituted in its place. Though the genuineness of *bees* was made suspicious on literary grounds by the addition in the

line following of the somewhat unnecessary information that they were in the habit of making honey, the word was accepted, and remained in all subsequent editions. For instance, in 1888 Professor Skeat brought out a volume containing the "Minor Poems," in which the "Parliament of Fowls" was included. In it he adhered to the reading which had been in use since 1561. He appended, indeed, to the line containing it the following foot-note : "Bees must be right ; but there is no authority for it except that of the black-letter editions ; thus, ed. 1561 has Bees." Here again I pointed out in my *Studies in Chaucer* (vol. i, p. 243), that *bees* was certainly wrong as well as unauthorized ; that the reading *flyes* of the earlier black-letter editions was correct, and to prove it quoted two passages from Chaucer himself—one from the Parson's tale and the other from the translation of Boethius—to the effect that bees were then called flies which made honey.'

In his *Studies in Chaucer* (I. 243-4), Professor Lounsbury, after some discussion of the matter, continues : 'Surprising as it is that an error so gross should have been made, it is far more surprising that it could have been persistently maintained in so many manuscripts often differing widely from one another, and some unquestionably the work of competent copyists. To represent the swallows as feeding upon birds was bad enough ; but when, in addition, these same birds were described as making honey, it seems to have required unusual incapacity to miss substituting a proper word, even though no written authority for it could be found.'

And yet *foules* may be right, after all.

If we go back to one of the patristic authorities on natural history, we find that Ambrose recognizes but three main orders of animals—land animals, those that fly, and aquatic animals. Thus he says (*Hexaem.* 5. 12. 37 : *Patr. Lat.* 14. 223) : 'Tria enim genera animantium esse non dubium est—terrenum, volatile, aquaticum' ; and so Basil (*Hexaem.* 8. 2 : *Patr. Gr.* 29. 167), from whom Ambrose derives many of his views.

Elsewhere we find him saying (*Hexaem.* 5. 14. 49 : Migne, *Patr. Lat.* 14. 227) : 'Sunt etiam vitæ in avibus et operum diversitates ; ut alii ament in commune consulere, et collatis viribus

<sup>1</sup> The translation offered (though with diffidence) by Siebs, *Z. f. d. P.*, xxix, 412 : "da liessen sie es zuerst mit den lanzen losgehen, mit scharfen waffen" is worthy of note, but probably unsupported by analogy.